

## **REMARKS**

Claims 1-44 are pending in this application. Claim 36 has been amended and claim 45 has been added. The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art.

### **Allowed/Allowable Subject Matter**

Applicants would like to thank Examiner Brinson for his indication that claims 22 and 38 are allowed and claims 4, 8, 14, 15, 21, 23, 24, 28-30, 32, 40-42 and 44 are allowable.

### **Request for clarification of the status of claim 21**

In the current Office Action claim 21 is listed as being objected to but allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. See Office Action, p. 1 and 6. However, claim 21 is also listed as being rejected under 35 USC §103(a) as being unpatentable based upon DE 197 27 907, to Eipper et al., and in view of US Patent No. 4,995,545, to Wycech. Applicants believe that this is merely a typographical error, particularly when considering neither Eipper et al. nor Wycech teaches a flexible barrier member formed of a polymeric material. Applicants respectfully request clarification regarding the status of this claim.

### **Rejection under 35 U.S.C. §102**

Claims 17-20 and 36 have been rejected under 35 USC §102(b) as being anticipated by US Patent No. 4,269,890, to Breitling et al. Applicants respectfully disagree.

Claim 17 recites method steps of providing a structure defining a hollow cavity and heating the structure to expand the reinforcement material to form a structural foam. This claim requires the step of heating the structure in which the insert is placed within and which such heat cause expansion of the reinforcement material.

Breitling et al. fails to teach any application of heat whatsoever. Nor does the Office Action provide any indication where such heat may be provided by Breitling et al. For at least this reason, the rejections to independent claim 17 and dependent

claims 18-20 have been traversed. Applicants believe these claims are now in condition for allowance.

Currently amended claim 36 now recites "wherein the flexible barrier is formed of a polymeric material." Neither Breitling et al., US Patent No. 4,995,545, to Wycech, nor DE 197 27 907, to Eipper et al. teach or suggest this features. For at least this reason, the rejection to claim 36 is rendered moot. Applicants believe that this claim 36 is now in condition for allowance.

#### Rejection under 35 U.S.C. §103

Claims 1, 3, 5-7, 9-13, 16, 18, 25, 26, 31, 33, 34, 37 and 39 have been rejected under 35 USC §103 as being obvious based upon US Patent No. 4,269,890, to Breitling et al., and in view of US Patent No. 4,995,545, to Wycech. Applicants respectfully disagree as the combination of these references fails to teach or suggest a heat activated reinforcement material.

Independent claim 1 recites a method step of filling a flexible barrier member with a thermally activated expandable polymeric reinforcement material and exposing the reinforcement material to a temperature ranging from approximately 93° C to approximately 204° C for activating expansion of the reinforcement material. Independent claim 18 recites a bladder system including a heat activated reinforcement material inserted into a flexible barrier. Dependent claim 37 includes a method step that the reinforcement material is a thermally activated expandable polymeric reinforcement material and curing the thermally activated expandable polymeric reinforcement material. Independent claim 39 includes a method step of filling an insert with thermally activated expandable polymeric reinforcement material and activating the thermally activated expandable polymeric reinforcement material.

Each of these claims include the feature of a heat activated reinforcement material. Breitling et al. does not teach or suggest any reinforcement material that is heat activated. Nor does Wycech teach or suggest reinforcement material that is heat activated. While the reinforcement material of Wycech may form heat during activation, there is no use of heat to cause activation of the reinforcement material. Also, the referenced section indicated by the Examiner, Wycech, column 6, lines 57-58, does not teach the expandable material being activated through an application of heat, but instead, that one of the two components forming the activatable material

(e.g. component A) expands in a temperature range of 100° C to 120° C which is reached as a result of the internal heat generated during activation. Also see Wycech, column 10, lines 33-39, which describes activation through the combining of dough component A with the dough component B.

For at least this reasons, Applicants have traversed the rejection to claims 1, 18, 37 and 39 and these claims are believed to be in condition for allowance. Similarly dependent claims 3, 5-7, 9-13, 16, 25, 26, 31, 33 and 34 are also believed to be in condition for allowance.

Claims 1-3, 5-7, 9, 11-13, 16, 21, 27, 34, 35 and 43 have been rejected under 35 USC §103 as being obvious based upon DE 197 27 907, to Eipper et al., in view of US Patent No. 4,995,545, to Wycech. Applicants respectfully disagree for the same reason as stated above. Furthermore, there lacks motivation to combine the reinforcement material of Wycech with the system of Eipper et al.

Independent claim 1 recites a method step of filling a flexible barrier member with a thermally activated expandable polymeric reinforcement material and exposing the reinforcement material to a temperature ranging from approximately 93° C to approximately 204° C for activating expansion of the reinforcement material. Independent claim 43 recites a method step of filling a flexible insert with thermally activated expandable polymeric reinforcement material and activating the thermally activated expandable polymeric reinforcement material.

The Office Action asserts that the reinforcement material and methods taught in Wycech may be combined with the teachings of Eipper et al. However, as described above, the reinforcement material of Wycech is not heat activated. Furthermore, it is not clear how the hand kneaded dough of Wycech can be inserted through the small bore of the insert of Eipper et al., particularly in view of the expansion of the dough during kneading.

With respect to claim 21, as previously mentioned and in view of the indication of allowability, Applicants believe that the indication of this claim being rejected is in error.

For at least these reasons, Applicants have traversed the rejection to claims 1 and 43 and these claims are believed to be in condition for allowance. Similarly

dependent claims 2, 3, 5-7, 9, 11-13, 16, 21, 27, 34 and 35 are also believed to be in condition for allowance.

By amending the application, the Applicants do not concede that the patent coverage available to them would not extend as far as the original claim. Rather, Applicants reserve the right to file a continuation application to pursue the breadth of the claims as filed. Applicants believe that the Examiner has not made a sufficient showing of inherency of the teachings of the asserted prior art, especially given the lack of teachings in the cited references of the properties that Applicants have recited in their claims.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.


### CONCLUSIONS

In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (248) 292-2920.

If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-1097 for any fee which may be due.

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